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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined fifth and sixth periodic reports of Estonia

Addendum

Information provided by Estonia in follow-up to the concluding observations*

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* The present document is being issued without formal editing.

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1. **The Committee recommends that the State party establish an effective strategy to prevent domestic violence as well as a multi-sectoral National Referral Mechanism for victims of domestic violence involving judges, local police, social and health workers and other stakeholders (see CEDAW/C/EST/CO/5-6, para 19 (a)).**

2. Estonia has started multi-sectoral approach for supporting victims of domestic violence and the National Victim Support is the central point coordinating the work and leading the network all around Estonia. The Minister of Interior and the Minister of Health and Labor initiated in 2017 a project to protect victims of domestic violence, and the project will continue as everyday practice, involving law enforcement, social and child protection, women's shelters and other relevant counterparts. The new approach was piloted in Pärnu city and county from December 15, 2017 to March 31, 2018. The project aimed to test different approaches that ensure victim's security and empowerment, rapid intervention and case management, and effective need-based social and psychological support. For the purpose of protecting all the victims, perpetrators were removed from the scene and victims were provided with support from National Victim Support system and women's shelters. In order to fulfil the project's goal, we co-operated more coherently and exchanged information more quickly. The Government Memorandum was put together, presenting the findings of the Steering Group on the practice being tested and proposals for changes in the organization, resources and legislation regarding law enforcement and social affairs, local government and aid organizations were agreed on the Government level. As a result of the project, the implementation of the tested collaborative activities will continue, and it will be gradually introduced throughout Estonia by the year 2021. In addition, Multi-Agency Risk Assessment in cases of domestic violence is being practiced in cases that are more serious. The two approaches together will provide safety and security for victims of domestic violence and their children as well.

3. Regarding violence prevention, The Strategy for Preventing Violence in 2015-2020 (http://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/strategy_for_preventing_violence_for_2015-2020.pdf) encompasses violence between children, abuse of children, domestic violence, sexual violence and trafficking in human beings. Vision of the Strategy for Preventing Violence for 2020: Estonian society does not tolerate violence. Violence is noticed and intervened in. Violence victims are protected and supported. In order to prevent further violence, effective work is performed with perpetrators of violence and for prevention of violence among children and youths. The Strategy's overall goal: Violence in Estonia has decreased by 2020. The fulfilment of this goal is assessed by the level of falling victim to violence, based on studies and statistics. In order to achieve the Strategy's overall goal, 4 sub-goals have been set: People's skills in avoiding, recognising and intervening in violence have improved; Protection and support of violence victims corresponding to their needs is better ensured; Proceedings of violence cases are more victim-friendly; Treatment of perpetrators of violence is more effective and their repeat offending has decreased. The Strategy discusses violence prevention in its wider meaning, at three prevention levels encompassing universal prevention, victim protection and work with consequences of violence. First, the Strategy addresses awareness-raising and educating of the general public; second, the Strategy focuses on people at risk of becoming a victim or committing an offence; and third, the Strategy is used for working with consequences of violence, offering support measures to victims as well as interventions concerning perpetrators of violence. The solutions proposed in the Strategy are guided by the World Health Organisation's understanding that risk factors for violence are related to the society (e.g. norms favouring violence, gender inequality), the community (e.g. lacking victim support services), relationships (e.g. domestic conflicts, poor parenting skills) and persons (e.g. history of abuse as a child, psychological and behavioural problems, addiction problems).

4. In 2016, Lead Group of the Strategy for Preventing Violence in 2015-2020 was created. Seven ministries are responsible for the Strategy's implementation; their representatives make up the lead group of the Strategy. The Strategy's implementers are the Ministry of Justice, the Ministry of Education and Research, the Ministry of Culture, the Ministry of Economic Affairs and Communications, the Ministry of the Interior, the Ministry of Social Affairs, the Ministry of Foreign Affairs with their subordinate authorities (the Estonian Forensic Science Institute, prosecutor's offices, the Police and Border Guard Board, the Estonian National Social Insurance Board, the National Institute for Health Development). Main purpose of the Strategy´s lead group is to answer for the implementation of the Strategy and coordinate activities of the responsible parties, as well as to discuss the developments in the sector, the issues requiring solutions and amendment of the operational programme of the Strategy.

5. **The Committee recommends that the State party amend the Penal Code to review the definition of rape as any non-consensual sexual act irrespective of pain, physical abuse and/or health damage and threat and to specifically criminalize sexual harassment, and add economic and psychological violence into the definition of domestic violence (see CEDAW/C/EST/CO/5-6, para 19 (b)).**

6. Estonia has criminalized all types of sexual violence and these are covered by different articles in our Penal Code (please see them below). Also, please note that regarding § 147, children under the age of 10 years old are considered unable to consent to any sexual activities, so even if the child gave his/her consent or even initiated, all sexual activities (not only intercourse!) are considered and prosecuted as rape if one party involved was younger than 10 years old.

7. In Estonia all sexual crimes are gender neutral, so it does not matter whether these acts involved a man and a woman; two (or more) men; or two (or more) women. There is no difference whether the perpetrator and the victim were married or not, all acts of sexual violence are still criminalized and punishable.

8. The relevant provisions:

§ 141. Rape

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation is punishable by one to five years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act:

1) If committed against a person of less than eighteen years of age;

2) If committed by a group;

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

3) Serious damage is thereby caused to the health of the victim;

4) It causes the death of the victim;

5) It leads the victim to suicide or a suicide attempt; or

6) It was committed by a person who has previously committed a criminal offence provided in this Division, is punishable by six to fifteen years' imprisonment.

[RT I 2006, 31, 233 - entry into force 16.07.2006].

[RT I, 25.09.2015, 6 - entry into force 23.09.2015]: To declare the sanction of subsection 141 (2) of the Penal Code to be in conflict with the Constitution and repealed to the extent that it prescribes 6 years' imprisonment as minimum term of punishment for commission of an act of sexual nature without using force with a child younger than ten years of age.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For the criminal offence provided for in clause (2) 1) of this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

§ 143. Compelling person to engage in sexual intercourse or other act of sexual nature

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by taking advantage of the dependency of the victim on the offender but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by up to three years' imprisonment;

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by up to five years' imprisonment;

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

§ 143². Sexual intercourse or other act of sexual nature using influence

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than eighteen years of age by taking advantage of the dependency of the victim on the offender or with abuse of influence or confidence but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by two to eight years' imprisonment;

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment;

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

§ 144. Sexual intercourse with descendant

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Sexual intercourse or commission of another act of sexual nature by a parent, person holding parental rights or grandparent with a child or grandchild is punishable by two to eight years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

§ 145. Sexual intercourse or other act of sexual nature with child

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than fourteen years of age is punishable by up to five years' imprisonment;

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment;

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83[2] of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

§ 145[1]. Buying sex from minors

(1) Engaging in sexual intercourse or committing another act of sexual nature with a person of less than eighteen years of age for monetary payment or any other benefit is punishable by up to three years' imprisonment;

(2) An act specified in subsection (1) of this section, if committed against a person of less than fourteen years of age, is punishable by up to five years' imprisonment;

(3) The act specified in subsections (1) and (2) of this section, if it was committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment;

(4) An act specified in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(5) For the criminal offence provided for in subsections (2) and (3) of this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83[2] of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

§ 147. Inability of person of less than ten years to comprehend

Within the meaning of the offences provided for in this Division, a person is deemed to be incapable to comprehend if he or she is less than ten years of age.

Sexual harassment was added to the Penal Code on July 6, 2017 as a specific offence. Here you can find the link (in English):

https://www.riigiteataja.ee/en/eli/509072018004/consolide.

§ 153[1]. Sexual harassment

(1) An intentional physical act of sexual nature against the will of another person committed against him or her with degrading objectives or consequences is punishable by a fine of up to 300 fine units or by detention;

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,000 euros.

[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

§ 178[1]. Agreement of sexual purpose for meeting with child

(1) Making a proposal for meeting a person of less than eighteen years of age who was not capable of comprehending the situation, or a person of less than fourteen years of age, or concluding an agreement to meet him or her, and performance of an act preparing the meeting, if the aim of the meeting is to commit an offence of sexual nature provided for in §§ 133, 133[1], 141-145[1], 175, 175[1], 178 or 179 of this Code with respect to the specified person, is punishable by a pecuniary punishment or up to three years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1[1]) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175, 175[1], 178 or 179 is punishable by one to three years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a legal entity, is punishable by a pecuniary punishment.

[RT I 2010, 10, 44 - entry into force 15.03.2010]

§ 179. Sexual enticement of children

(1) Handing over, displaying or making otherwise pornographic works or reproductions thereof knowingly available to a person of less than fourteen years of age, or showing sexual abuse to such person or engaging in sexual intercourse in the presence of such person or knowingly sexually enticing such person in any other manner is punishable by a pecuniary punishment or up to three years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1[1]) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175, 175[1], 178 or 178[1] is punishable by one to three years' imprisonment;

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a legal entity, is punishable by a pecuniary punishment.

9. In January 2015 an amendment of the Penal Code entered into force pursuant to which causing damage to the health of another person and physical abuse which causes pain, if aggravated by being committed in a close relationship or relationship of subordination, is punishable by a pecuniary punishment or up to five years' imprisonment (section 121, subsection 2, clause 2). The data on domestic violence is largely based on this aggravated offence.

10. On the same date, the amendment also included a rewording of the aggravated circumstances applied for all offenses, and which should be taken into account when considering the degree of guilt and punishment (section 58), e.g.:

(3) Commission of the offence knowingly against a person who is less than eighteen years of age, pregnant, in an advanced age, in need of assistance or has a severe mental disorder;

(4) Commission of the offence against a person who is in a service or financially dependent relationship with the offender, and against a former or current family member of the offender, against a person who lives with the offender or a person who is otherwise in a family relationship with the offender;

...

(12) Commission of the offence against a minor with abuse of power or confidence;

(13) Commission of the offence against the person by an adult in the presence of a minor.

11. In addition, Estonia considers economic and psychological violence as part of the following configurations also:

- Division 2. Offences against Health;
- Subdivision 1. Offences Hazardous to Health;

§ 118. Causing serious health damage

(1) Causing health damage which results in:

1) Danger to life;

2) A health disorder which persists for at least four months or which results in partial or no work ability;

3) Severe mental disorder;

4) Miscarriage;

5) Permanent mutilating facial injury;

6) Loss or cessation of functioning of an organ; or

7) Death,

is punishable by four to twelve years' imprisonment.

...

- Subdivision 2. Acts of Violence.

§ 120. Threat

(1) A threat to kill, cause health damage or cause significant damage to or destroy property, if there is reason to fear the realisation of such threat, is punishable by a pecuniary punishment or up to one year's imprisonment.

...

§ 157.3. Harassing pursuit [entry into force 06.07.2017]

Repeated or consistent attempts to contact another person, watching him or her or interference in the privacy of another person against the will of such person in another manner, if the intent or effect thereof is to intimidate, humiliate the other person or disturb him or her in any other manner, if the act does not contain the necessary elements of an offence provided for in § 137 of this Code, is punishable by a pecuniary punishment or up to one year's imprisonment.

12. **The Committee recommends that the State party strengthen measures to address horizontal and vertical occupational segregation and amend the Gender Equality Law to mandate the Labour Inspectorate to monitor the implementation of the principle of equal pay for work of equal value (see CEDAW/C/EST/CO/5-6, para 29 (b)).**

13. One of the key measures to decrease gender pay gap and enhance institutional arrangements in the coming years is through the amendments of the Gender Equality Act. The amendments will provide the Labour Inspectorate with the right to exercise state supervision over implementation of the requirement of equal pay for women and men and the right to precept employers to conduct equal pay audits if the Labour Inspectorate suspect that their activities may be discriminatory in the public sector. The supervision will only apply for the public sector, but private sector employees can voluntarily use the IT-tool to calculate their gender pay gap and take all the following steps to improve the gender equality situation in their organisation. The labour inspectors offer their guiding and support also for the private sector, if requested. In order to keep the administrative burden as low as possible, an IT tool will be developed. The tool will use data that the employers already provide to the state. Additionally, guidelines will be developed to provide know-how for labour inspectors and employers on evaluation and comparison of jobs. The IT tool and relevant guidelines will also be available for use for all the employers in the private sector as well. The amendments went through the first reading at the parliament in September 2018. The second reading is planned for November 2018. The amendments should apply from 1 July 2020 to allow time for the IT-developments, trainings for the inspectors and awareness raising activities for the employers.

14. Gender pay gap is one of the most crucial issues on gender equality field in Estonia. However, what is peculiar about Estonian gender pay gap is that features such as segregation, education, work experience or any other factor that we have data on only explain 15% of the pay gap, leaving 85% a grey area. Therefore, Estonia will carry out an in-depth analysis to increase the amount of explainable gender pay gap. As more precise data is needed about the problem to sufficiently address it. The analysis consists of several work-packages: the researchers will link together different existing databases and registers to cover the data gaps; add qualitative analysis and use simulation and prognosis models to design evidence-based policy scenarios. As a result, Estonia will have more data on gender pay gap and a smaller proportion of the unexplainable pay gap. The results will be used in policymaking as well as in awareness raising activities. To put the results to use also among the target group, digital dashboards and apps will be developed, that can be used by the employees as well as employers. The digital solutions will give an overview of the pay levels and

gender pay gap in an economic field or position-level. As the studies show, women in Estonia often enter the pay negotiation process with a lower pay expectation than men. The digital solutions can have an empowering effect for women, providing information about the average pay level and pay gap in a certain field or position-level. The project call was launched June 2018, the activities start in January 2019 and end in 2021. The first preliminary results will be available in summer 2019.

15. Estonia has a high horizontal segregation and that is reflected also in the ICT field, where only 29% of the workers are women. This is being enforced by the educational system, as 71% of the students who were accepted to the university to study ICT in 2017, were men. However, the state has been increasing the efforts to increase the percentage of women in ICT. There have been campaigns inviting women to study ICT (Ministry of Economic Affairs and Communications started the campaign "ICT is everywhere" directed primarily at girls and young women to inspire them to study IT-related fields). The clips inviting youngsters to study IT have been gender-sensitized (https://startit.ee/karjaar-it-alal). There are also several NGOs who promote women's involvement and careers in ICT. Tech Sisters arranges entry level hands-on technology-focused workshops in development, robotics and design and monthly networking events to provide opportunities to meet, mingle and share experiences with peers (http://techsisters.org); Digigirls is a series of events for girls in 7th-12th grades introducing them to ICT field (http://www.digigirls.ee).

16. There have also been trainings for career counsellors to raise their gender awareness and several information materials produced for parents[1] and hobby group instructors[2] how to awake girls' interest in STEM (science, technology, engineering and mathematics) fields.

[1] http://kompetentsikeskus.volinik.ee/wp-content/uploads/2018/02/infoleht_Lapsevanematele_LTT.pdf.

[2] http://kompetentsikeskus.volinik.ee/wp-content/uploads/2018/02/Uuringu-aruanne_LTT-huviharidus-sooline-aspekt.pdf.